



## EQUAL OPPORTUNITY POLICY

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## 1. PURPOSE

Hillgrove Resources Limited is committed to a policy of Equal Employment Opportunity and freedom from all forms of discrimination in the workplace. This commitment aims to deliver fair and just employment outcomes, contribute to the fulfilment of the Company’s strategic vision and to fulfil our legal obligations.

In fulfilling the requirements of this policy, Hillgrove Resources will comply with State and Federal legislation on discrimination, equal employment opportunity and affirmative action, in addition to binding international human rights instruments.

The specific goals of this policy include:

- Promotion and development of a culture supportive of employment equity and diversity principles;
- Provision of equal employment opportunities within Hillgrove Resources, identification and removal of barriers to participation and progression in employment, and implementation of an affirmative action program for equity groups as defined in the legislation, namely women, Aboriginal and Torres Strait Islanders, racial, ethnic and ethno-religious minorities, and people with disabilities;
- Appointment and advancement of Employees on the basis of genuine merit;
- Prevention and elimination of discrimination against Employees on the grounds of sex, marital status, pregnancy (or potential pregnancy), race or ethnic background, age, carer responsibilities, sexual orientation, disability, political or religious belief or transgender status;
- The development of policies and practices that reflect and respect the social and cultural diversity contained within the teams and communities we work within;
- The development of programs to support the ongoing betterment of individuals impacted by equal employment opportunity discrimination in the past.

## 2. SCOPE

This Equal Opportunity Procedure applies to all personnel accessing Hillgrove sites including Employees, contractors, consultants and visitors.

## 3. DEFINITIONS

<b>Discrimination</b>	As described in both State and Federal Legislation, referring to any distinction, exclusion or preference made on the basis of irrelevant personal characteristics, such as sex, race, colour, religion or political opinion, which has the effect of impairing equality of opportunity or treatment in employment or occupation.
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<b>Equal Opportunity</b>	Means treating individuals fairly and without discrimination in all aspects of their employment.
<b>Harassment</b>	Occurs when an individual engages in offensive, abusive, belittling or threatening behaviour directed at an individual or a group because of a real or perceived attribute or difference of the other person(s). The behaviour is unwelcome, unsolicited, usually unreciprocated and usually (but not always) repeated.
<b>Merit</b>	Is the basis upon which decisions affecting employment and career development should be made. The fundamental ingredients are work performance, qualifications, competencies, abilities, skills, knowledge, experience, prospects for advancement and attitude.
<b>Sexual Harassment</b>	Occurs when there is any unwelcomed conduct of a sexual nature, where it is reasonable to expect that the other person would be offended, afraid or humiliated. Both men and women can sexually harass or be harassed by either sex.

## **4. ROLES AND RESPONSIBILITIES**

### **4.1. MANAGING DIRECTOR AND CO**

The Managing Director and Chief Executive Officer (CEO), , has overall responsibility for the implementation of an Equal Employment Opportunity program that seeks to eliminate discrimination from employment, promote equality of opportunity and to value diversity.

### **4.2. MANAGERS AND SUPERVISORS**

It is the responsibility of all Managers and Supervisors, and any cost centre heads, to ensure that all staff are aware of and comply with the Hillgrove Resources Equal Employment Opportunity Policy. Managers and supervisors are expected to support and facilitate equal employment opportunity principles at all times.

### **4.3. EMPLOYEES**

Whilst the maintenance and promotion of Equal Employment Opportunity is primarily the responsibility of Managers, it is equally the responsibility of all Employees to adopt a positive and constructive attitude to both the principle and practice of Equal Opportunity in the workplace.

## **5. STATUTORY OBLIGATIONS**

Under Federal and State legislation, both the Employer and Employees have an obligation to ensure equal opportunity and anti-discrimination principles are observed and applied in the workplace.

The following legislation is applicable to this Policy:

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)

- Disability Discrimination Act 1992 (Cth)
- Disability Discrimination Regulations 1996 (Cth)
- Fair Work Act 2009 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Racial Hatred Act 1995 (Cth)Sex Discrimination Act 1984 (Cth)
- Workplace Gender Equality Act 2012
- Anti-Discrimination Act 1977 (NSW)
- Racial Vilification Act 1996 (S.A)
- Whistleblowers Protection Act 1993 (S.A)
- Equal Opportunity Act 1984 (S.A)

## 6. DISCRIMINATION

Discrimination can present in a number of forms. *Unlawful* discrimination, however, is that which is directed at an individual in relation to their:

- Sex
- Gender,
- Sexual orientation, gender identity, gender expression, intersex, bisexuality, trans or other sexuality status or history
- Pregnancy (actual or perceived)
- Marital status
- Family responsibilities
- Disability/impairment
- Race
- Nationality or social origin
- Political beliefs
- Religious beliefs
- Age
- Physical features
- Personal association with a person with a protected attribute
- Freedom of association
- Victimisation (eg whistleblower)
- Criminal record.

## 6.1. TYPES OF DISCRIMINATION

Discrimination may be either direct or indirect.

Direct discrimination occurs if a person treats someone else less favourably than they would another person in comparable circumstances due to, for instance, their age, gender or race.

Indirect discrimination involves imposing a requirement, condition or practice that appears fair and neutral but can only be complied with by a higher proportion of people without the attribute or personal characteristic. The measure of appropriateness is whether or not the condition is likely to have a proportionately different or negative impact on a particular class or group of persons.

Discriminatory behaviour takes many forms, however examples may include:

- Offensive 'jokes' or comments about another person's racial or ethnic background, sex, sexual preference, age or disability.
- Display of pictures, calendars, pin-ups, posters, computer images, (e.g. in electronic mail messages) etc. which may be viewed as offensive or derogatory.
- Expressing negative stereotypes of particular groups, for example 'married women shouldn't be working'.
- Judging a person on characteristics such as religious or political beliefs, cultural practices, sex or age, rather than their work performance.
- Using stereotypes or assumptions when making decisions about a person's career or job capabilities
- Arranging work in a manner which effectively excludes particular groups of people (e.g. holding regular meetings at times which do not suit those who have family responsibilities).
- Allowing personal bias to influence decision making practices (e.g. not considering a female candidate due to always having considered male candidates for a particular role).

There may be some circumstances where behaviour that might otherwise be considered discriminatory is authorised by law.

Examples of legal discrimination may include situations where a person has characteristics which mean they cannot perform the necessary or "inherent" requirements of a position, such as in the case of someone applying to transfer to a labouring position when they are unable to walk without assistance or where an employee wishes to be considered for an analysis role, but does not have the cognitive skills to do so due to a mental disability.

## 7. SEXUAL HARASSMENT

Sexual harassment means any verbal, written or physical conduct that is unwelcome and uninvited resulting in an individual being offended, humiliated or intimidated where that result was reasonably anticipated. A single act may be sufficient and the intention of the person committing the offence is not relevant.

Sexual harassment is determined from the point of view of the person feeling harassed. It does not matter how the behaviour was intended. What matters is its effect on the other person.

The Federal Sex Discrimination Act 1984 ("the SDA"), and equivalent State legislation, prohibits and deems unlawful all sexual harassment in the workplace.

A person sexually harasses another person:

- If that person makes an unwelcome sexual advance, or unwelcome request for sexual favours, to the person harassed, or engages in other unwelcome conduct of a sexual nature in relation to the person harassed.
- In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the person harassed would be offended, humiliated or intimidated.

Conduct of a sexual nature includes making a statement or acting in a sexually charged manner to a person or in the presence of a person. It includes oral or written statements and indirect or implied behaviours.

Unlawful conduct may occur when:

- Acceptance or rejection of the conduct is used to make employment decisions (hiring, promoting, allocating work assignments, pay increases) that affect the person claiming harassment.
- The conduct has the purpose or effect of unreasonably interfering with the employee's job performance or enjoyment in the workplace.
- The conduct creates an intimidating, hostile, offensive or sexually charged work environment.

Sexual harassment may consist of (but is not limited to) any of the following:

- Physical contact such as kissing, patting, pinching or touching in a sexual way, unnecessary familiarity such as deliberately brushing against a person or putting an arm around another person's body.
- Leering or staring at a person's body.
- Sexually explicit conversation, (e.g. asking a colleague whether they had sex on the weekend or publicly commenting on activities the harasser may have participated in).
- Unwelcome remarks or insinuations about a person's sex or private life, including the giving of inappropriate and sexually explicit gifts, material or items.
- Suggestive comments about a person's appearance, clothing, body or sexual capabilities.
- Gender based insults (e.g. "what would you know, you're a woman").
- Sexual propositions or persistent requests for dates.
- Sexual jokes, abusive language, innuendos, offensive telephone calls or emails, displays or giving of obscene or pornographic photographs, pictures, emails, posters or objects (.e.g. the giving of a sex toy as a gift in the workplace 'Kris Kringle' event)

Unwelcome conduct of this type is harassment, whether or not the conduct is related directly or indirectly to the continuance of the employment of the harassed person, his or her promotion, or otherwise affects or is seen as affecting conditions of employment.

## 8. RACIAL HARASSMENT

Racial harassment means any verbal, written or physical conduct relating to race that is unwelcome and uninvited resulting in an individual feeling offended, humiliated or intimidated (where the impact was reasonably anticipated). A single act may be sufficient to be deemed racial harassment. For example, telling a joke about a particular race or using derogatory names.

## 9. WORKPLACE BULLYING

Bullying occurs when a person or a group of people repeatedly behaves unreasonably towards a worker or a group of workers at work AND the behaviour creates a risk to health and safety.

**Repeated behaviour** is persistent behaviour and can involve a range of behaviours over time.

**Unreasonable behaviour** is behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Bullying may include (but is not limited to) behaviour such as:

- Verbal or written abuse (such as, being sworn at, threats, insults, continual criticism, name calling, practical jokes, unjustified threats of dismissal).
- Direct violence including physical assault and harassment.
- Threatening body language, or verbal and implied threats to harm.
- Unreasonably undermining work performance, deliberately withholding work-related information or resources, or deliberately supplying incorrect information.
- Initiation ceremonies involving verbally or physically embarrassing or inflicting harm a new employee.
- Inappropriate interference with personal belongings or work equipment.
- Giving of inappropriate gifts during group functions (e.g. the giving of women's clothing to a male employee, under the guise he is a 'sissy').

Bullying does not include:

- Genuine and reasonable disciplinary procedures.
- Genuine and reasonable performance management processes

- Maintaining reasonable workplace goals and standards.
- Constructively delivered feedback or counselling that is indeed to assist Employees to improve their work performance or the standard of their behaviour.
- Directing and controlling how work is performed (a fundamental right of all Employers).

It is important to note that workplace bullying or intimidation may not breach anti-discrimination laws, however, such behaviour may be inconsistent with Hillgrove's expectations that all Employees demonstrate appropriate ethical behaviours and comply with the Code of Conduct.

Further penalties may also apply in direct contravention of contracts of employment, occupational health & safety and/or criminal legislation.

## **10. VICTIMISATION**

It is unlawful to victimise an individual who has made a report of discrimination or harassment, or an individual who has given information/evidence on behalf of another, or who makes a report to or against the Employer in circumstances where the report is made in good faith.

Behaviour which may amount to victimisation includes demotion, dismissal, transfer, suspension, loss of a benefit, being ostracised from work or work related social functions, or being the subject of gossip or innuendo.

## **11. VILIFICATION**

Vilification means conduct which incites hatred towards, serious contempt for, or severe ridicule of a person or group of persons for a prohibited reason, for example, vilifying a person because of their race.

## **12. DEFAMATION**

Defamation law is concerned with protecting a person's reputation in the eyes of others. It is not defamatory for an individual to make a genuine complaint or to confront a harasser to advise them that their behaviour is unwelcome.

A person with a recognised genuine interest in the resolution or investigation of a complaint of harassment (either formal or informal) is protected by the defence of qualified privilege.

The parties to a complaint should be warned of defamatory legal consequences which may follow if confidentiality provisions are breached.

During the course of the resolution of an EEO complaint, issues relating to potential or alleged defamation and qualified privilege should be referred to the General Manager.

## **13. COMPLAINTS PROCEDURE**

Where an individual feels they are being harassed, discriminated against, bullied, intimidated, victimised, vilified or defamed in the workplace, they should in the first instance discuss the matter with their direct Supervisor or Manager.

Where it is inappropriate, impractical, or the employee is not comfortable approaching the direct Supervisor or Manager, or a Senior Manager (“manager once removed”) should be contacted.

Should the individual concerned wish to make a formal complaint, they must do so in writing, addressing their concerns to the General Manager who will conduct a formal investigation into the matter.

The General Manager has as obligation to investigate and resolve where possible any complaint lodged. All complaints lodged in accordance with this policy will be treated in the strictest of confidence ensuring complainants are not adversely affected by their disclosure.

Managers are expected to ensure appropriate steps are taken to rectify any observed or reported EEO breaches and that appropriate disciplinary action is taken against those proven to have committed a breach of this policy.

A breach of this policy or any of the antidiscrimination laws may result (among other things) in one or more of the following:

- Disciplinary action against the offender in accordance with the Hillgrove Disciplinary Policy, the outcomes of which may range from formal counselling through to termination of employment.
- Legal defamation or other proceedings against the offender
- Legal proceedings against the Employer of the offender
- Legal proceedings against any individual who is deemed to have somehow facilitated the commission of the unlawful conduct or behaviour by the offender

All queries relating to this Policy are to be referred to the General Manager.

## **14. MANAGEMENT SYSTEM REVIEW**

This procedure shall be reviewed on a two yearly, or when any change in the process occurs. The procedure is subject to internal audit.